

**FOYS BEND ACQUISITION FACT SHEET
FEBRUARY 2009**

The proposal is for FWP to acquire 245 acres of land from a private landowner located just below the transition zone between the upper braided and the lower meandering sections of the Flathead River (R 21W, T28N, Sections 26, 27, 34, & 35) in Flathead County on Foy's Bend in the Flathead River south of Kalispell, in Flathead County. It sits at the end of the county road, and there is adequate access for administrative and allowed public use as well as for a possible on-site caretaker. The acquisition would be subject to the conservation easement conveyed to BPA at closing. FWP would manage this parcel as part of a Fisheries Greenway or Habitat Conservation program.

Under an existing agreement with BPA, FWP and the Confederated Salish and Kootenai Tribes (CSKT) can spend about \$8 million to conserve and protect fisheries habitats in the Flathead River basin through conservation easements or acquisitions. The entities have already spent approximately \$3.5 million on habitat projects in the Swan, Flathead, and Jocko Valleys. FWP and the CSKT worked cooperatively to develop the criteria for ranking lands suitable for fisheries habitat conservation. After working with the CSKT, members of the River-To-Lake Initiative, local landowners, and FWP staff, FWP identified this 245-acre parcel located on the Flathead River.

OWNER:	< George Ingham, II and Bonnie K. Ingham
PROPERTY RIGHT TO BE ACQUIRED:	< Fee Title
PROPERTY DATA:	< Property located in Flathead County T28N, R21W
COST:	< The parcel was appraised at \$3 million in 2007. Approximate selling price is \$2 million.
FUNDING	< BPA Fisheries Mitigation Funds
PROCESS:	< Draft Environmental Assessment distributed; End of 30-day Public Comment Period 1/9/09; Decision Notice issued 1/15/09; FWP Commission Approval – Pending.



Figure 1. Location of Proposed Foy's Bend project southeast of Kalispell along the Flathead River, Flathead County, Montana.

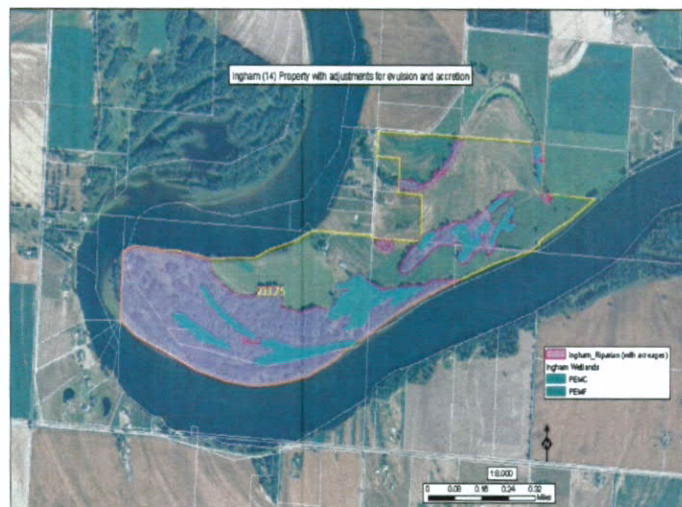


Figure 2. Aerial photo of Foy's Bend property (outlined in yellow) on the Flathead River near Kalispell. Riparian areas are shaded in purple and wetlands in blue.

FWP COMMISSION AGENDA ITEM COVER SHEET

Meeting Date: February 12, 2009

Agenda Item: Foy's Bend Land Acquisition, Flathead River

Division: Fisheries

Action Needed:

☐ **Approval of Tentative Rule**

☒ **Approval of Final Rule/Action**

☐ **Endorse Course of Action**

☐ **None - information only**

Time Needed on Agenda for this Presentation: 10 Minutes

◆-----◆
Background: Following FWP Commission approval for the Foy's Bend Land Acquisition in November 2008, staff realized that the original draft EA and Decision Document did not reveal as clearly as possible that FWP would be conveying a conservation easement to BPA at the time of closing. This conservation easement conveyance is a requirement of the 2008-2009 MOA signed by BPA, FWP, and the CSKT for the purpose of mitigating fisheries impacts of Hungry Horse dam. Because the conservation easement requirement is an integral part of the land acquisition and this was not clearly explained to the public and various decision makers, the Region amended the cover letter and draft EA and sent these documents out for a second public review period. The amended draft EA explained the conveyance of the conservation easement as a requirement of the BPA funding and included the proposed conservation easement terms. The Foy's Bend land acquisition proposes FWP acquire approximately 245 acres of land along the Flathead River main stem located south of Kalispell (T28N R21W, Sections 26, 27, 34, & 35) in Flathead County. The property meets established ranking criteria, provides substantial fisheries benefits, and has been recommended for acquisition by the CSKT/FWP technical working committee. Foy's includes nearly 2 miles (3.4 km) of high quality, intact, cottonwood/riparian riverbank habitat and adjoins several other protected properties. The parcel was appraised at \$3 million in 2007. Approximate selling price is \$2 million.

Public Involvement Process & Results: FWP issued the amended draft EA on December 12, 2008 for a 28-day public comment period ending January 9, 2009. FWP mailed notification cards to numerous entities, including all neighboring property owners, sportsman groups, and other interested parties; placed legal ads in local newspapers; and issued a news release. Copies of the amended draft EA were made available at the local libraries in Kalispell and Bigfork, the FWP Region One headquarters in Kalispell, the state library, and on the FWP web site. FWP received 2 comments in favor of the project during the first comment period received another 16 comments in favor of the project during the second. FWP had one neighbor express concerns about possible increased public traffic and other management issues during the initial comment period. Supporters include Flathead Audubon, Flathead Wildlife Inc., Mo-Fisch charters as well as other members of the recreating and sporting public.

Alternatives and Analysis: FWP developed only one viable alternative for the proposed action, the no-action alternative. The landowner was not interested in conveying a conservation easement, so this alternative was not considered. FWP analyzed the environmental impacts of the proposed action and no-action alternatives in both the original and amended draft EAs. Neither the draft EA nor the amended draft EA identified any significant environmental or socio-economic impacts from the proposed acquisition or conservation easement.

Agency Recommendation & Rationale: Because of the quality of this parcel for native fisheries conservation in the Flathead, public support for the project, and the consistency with BPA program, FWP recommends that the Commission approve the project as amended draft EA and decision document.

Proposed Motion: I move that the Commission reaffirm their approval for the Foy's Bend Land Acquisition as amended with a clear understanding that this includes the conveyance of a conservation easement to BPA at closing.



Region One
490 North Meridian Road
Kalispell, MT 59901
(406) 752-5501
Fax: 406-257-0349
Ref: JS039-08
January 15, 2009

Ladies and Gentlemen:

Fish, Wildlife & Parks (FWP), Region One, has completed an amended environmental assessment (EA) for the proposed Foy's Bend fee title land purchase of approximately 245 acres located just below the transition zone between the upper braided and the lower meandering sections of the Flathead River (R 21W, T28N, Sections 26, 27, 34, & 35) in Flathead County. After reviewing the amended draft EA, and the public comments and public support FWP received on this proposal, I recommend FWP complete the proposed action, subject to final approval by the FWP Commission and the State Land Board.

There were no changes to the amended draft EA based upon public comment received; therefore, the amended draft becomes the final EA. A copy of the amended decision notice is enclosed for your information. Please contact Fisheries Conservation Specialist John Wachsmuth at (406) 751-4554 or e-mail to jwachsmuth@mt.gov with questions or comments.

Sincerely,

James R. Satterfield, Jr., Ph.D.
Regional Supervisor

/ni

Enclosure

c: *Governor's Office, Attn: Mike Volesky, PO Box 200801, Helena, 59620-0801
*Environmental Quality Council, PO Box 20, Helena, 59620-1704
*Dept. of Environmental Quality, Planning, Prevention & Assistance, PO Box 200901, Helena, 59620-0901
*Dept. of Environmental Quality, Permitting Compliance, PO Box 200901, Helena, 59620-0901
*Montana Fish, Wildlife & Parks, Director's Office – Reg Peterson; Legal Unit – Stella Cureton; Fisheries – Karen Zackheim, Nancy Podolinsky, Jim Vashro, Joel Tohtz; Wildlife – Ken McDonald, Jim Williams; Lands – Darlene Edge; Parks – Dave Landstrom; Enforcement – Lee Anderson; Rebecca Cooper
Lynn Ducharme, Confederated Salish & Kootenai Tribes, PO Box 278, Pablo, 59855
*DNRC, PO Box 201601, Helena, 59620-1601 (Patty Greene)
*Montana Historical Society, SHPO, 225 North Roberts, Veteran's Memorial Building, Helena, 59620-1201
*Montana State Library, 1515 East Sixth Ave., Helena, 59620-1800
*Adam McLane, Montana Environmental Information Center, PO Box 1184, Helena, 59624
*George Ochenski, PO Box 689, Helena, 59624
*Wayne Hirst, Montana State Parks Foundation, PO Box 728, Libby, 59923
*Montana State Parks Association, PO Box 699, Billings, 59103
*Joe Gutkoski, President, Montana River Action Network, 304 N 18th Ave., Bozeman, 59715
Rep. Mark Blasdel, PO Box 291, Somers, 59932
Sen Verdell Jackson, 555 Wagner Lane, Kalispell, 59901
Flathead County Commissioners, 800 S Main Street, Kalispell, 59901
Flathead County Libraries, 247 First Avenue E, Kalispell; 521 Electric Avenue, Bigfork
Interested Parties



Montana Fish, Wildlife & Parks

Region 1
490 N. Meridian Road
Kalispell, MT 59901

**Amended Decision Notice
and
Finding of No Significant Impact
for
Foy's Bend Land Acquisition
Amended Environmental Assessment**

January 15, 2009

Introduction

In September 2008, Fish, Wildlife & Parks (FWP) Region One issued a draft environmental assessment (EA) and decision notice for the proposed 245-acre Foy's Bend Land Acquisition. After the decision notice was issued, the Region decided to amend the original draft EA to include the fact that FWP would be conveying perpetual conservation easement to the Bonneville Power Administration (BPA) upon purchase of the property. BPA is funding the acquisition to mitigate for fisheries impacts of Hungry Horse Dam. The Region sent out the amended draft EA on December 12, 2008, for a 28-day public comment period closing January 9, 2009.

Background

Under an existing agreement with BPA, FWP and the Confederated Salish and Kootenai Tribes (CSKT) can spend about \$8 million to conserve and protect fisheries habitats in the Flathead River basin through conservation easements or acquisitions. The BPA funds are to be used to replace fisheries habitats impacted by Hungry Horse Dam. These entities have already spent approximately \$3.5 million on habitat projects in the Swan, Flathead, and Jocko Valleys. FWP and the CSKT worked cooperatively to develop the criteria for ranking lands suitable for fisheries habitat conservation. The proposed Foy's Bend land acquisition of approximately 245 acres by FWP was among those projects selected by the joint fisheries team to move forward. This parcel is located just below the transition zone between the upper braided and the lower meandering sections of the Flathead River, consists of the interior of one of the larger meander reaches of the Flathead River, and is nearly 100% surrounded by water. It includes approximately 3.5 km of high quality, intact, cottonwood/riparian riverbank habitat. The Foy's Bend area contains substantial areas of deep, large, woody debris in the river channel, which provides cover and over-winter habitat for adult bull trout. The only building structures on the property include a mobile home and large hay shed. Most of the property falls within the 100-year floodplain.

The proposed project adjoins 190 acres of land already under conservation easement that includes 1.4 km of riverbank, and is across the river from another 265 acres under conservation

easement that includes about 2.4 km of riverbank. This project will protect another 3.4 km of riverbank and will greatly help maintain the habitat integrity of this portion of the Flathead River system where the Stillwater and upper Flathead merge and transition into the meandering lower Flathead River system.

Project Proposal

The proposal is for FWP to acquire 245 acres of land from a private landowner located on Foy's Bend in the Flathead River south of Kalispell, in Flathead County. The acquisition would be subject to the conservation easement conveyed to BPA at closing. FWP would manage this parcel as part of a Fisheries Greenway or Habitat Conservation program. The property is located in Flathead County, Range 21 W, Township 28 N, Sections 26, 27, 34, & 35. It sits at the end of the county road, and there is adequate access for administrative and allowed public use as well as for a possible on-site caretaker.

Conservation Easement Terms

The following are the uses that would be prohibited by the conservation easement unless they were considered "compatible uses" in Part IV of the conservation easement specifically approved in a management plan agreed to by BPA:

1. Haying and/or mowing;
2. Altering of grassland, woodland, wildlife habitat, or other natural features by burning, digging, plowing, disking, cutting, or otherwise destroying the vegetative cover;
3. Dumping refuse, wastes, sewage, or other debris;
4. Harvesting wood products;
5. Draining, dredging, channeling, filling, leveling, pumping, diking, impounding, or related activities, as well as altering or tampering with water control structures or devices;
6. Diverting or causing or permitting the diversion of surface water into, or out of, the easement area surface by any means;
7. Building or placing buildings or structures on the easement area;
8. Planting or harvesting any crop; and
9. Grazing or allowing livestock on the easement area.
10. Mining - excavation, dredging, or removal of soil, sand, gravel, rock, minerals, or other surface or subsurface materials.
11. Incompatible Uses - surface use except for such purposes necessary to preserve, enhance, restore, or create wetlands and riparian resource functions and values;
12. Acts Detrimental to Conservation - activities detrimental to conservation of the the following: fish and wildlife habitat, flood control, erosion control, water quality protection and enhancement, traditional cultural materials production, aesthetics, and low impact recreation;
13. Subdivision - subdivision of land into multiple, independently platted parcels.

However, the use of the easement area for compatible economic uses, including, but not limited to, managed timber harvest, periodic haying, or grazing may be allowed if addressed and approved by BPA in the management plan for the property.

Montana Environmental Policy Act

FWP is required by the Montana Environmental Policy Act (MEPA) to assess potential impacts of a proposed action to the human and physical environment. MEPA directs state agencies to

ensure that the public is informed of and has the opportunity to participate in the decision-making process. FWP prepared a draft and amended environmental assessment (EA) that identified the potential environmental and social impacts of this acquisition.

Description of Proposed Action and Alternatives

FWP developed only one viable alternative for the proposed action, the no-action alternative. The landowner was not interested in conveying a conservation easement, so this alternative was not considered.

Environmental and Social Impacts Draft EAs

FWP analyzed the environmental impacts of the proposed action and no-action alternatives in both the original and amended draft EAs. Neither the draft nor amended draft EA identified any significant environmental or socio-economic impacts from the proposed acquisition or conservation easement. FWP will continue to pay taxes on the property. FWP does not anticipate any additional development of the property, but the land would be available for dispersed recreational use. FWP will develop a more detailed management plan within one year of the acquisition. FWP anticipates undertaking some riparian and riverbank restoration in the future with funding from Region 1 fisheries budget from BPA. Any future restoration and the final management plan including public access and management of the property will be subject to future draft EA and public review process.

Public Involvement

In compliance with the Montana Environmental Policy Act, an amended draft EA was prepared and released on December 12, 2008, for a 28-day public review through 5:00 p.m., Friday, January 9, 2009. Notices were placed in two newspapers (Bigfork Eagle and Daily Inter Lake), FWP issued a news release, and notices were mailed to neighboring property owners, local conservation groups, and other area outdoor organizations. Copies of the amended draft EA were made available at the local libraries in Kalispell and Bigfork, the FWP Region One headquarters in Kalispell, the state library, and on the FWP web site.

Public Comments

In addition to three comments FWP received in October/November on the first draft EA in favor of the proposed acquisition, FWP received another 16 comments in favor of the project following release of the amended draft EA. Supporters include Flathead Audubon, Flathead Wildlife, Inc., and Mo-Fisch Charters, as well as other members of the recreating and sporting public. One comment that reflects most other supportive comments came from a gentleman from Emigrant, Montana. He stated:

“I don’t know that I’ve ever seen a more beautiful piece of river front property. I can’t think of a better way to preserve this property then by having the Fish, Wildlife & Parks own it.”

Flathead Audubon Society supported the project by stating...

“In both cases (Hay Creek and Foy’s Bend) the projects will not only preserve and protect native fisheries habitat but will also provide long-term benefits to many other wildlife species associated with the riparian and upland habitats on both properties.”

During the initial draft EA public comment period, FWP received a comment from an adjoining landowner listing some concerns regarding potential public uses and possible impacts on them or their neighbors. They had the following concerns:

Comment:

- Human use on the property has been carefully restricted in the past 32 years; we have concerns about increased public use, traffic, and trespass issues.
- Hunting has also been restricted (only a few hunters per year) in the past 32 years, and they would like to see it stay that way.
- Maintain property line fences that border neighbors' property.
- Keep changes minimal to the property as related to development; would like to see riparian improvements such as fencing and restoration.
- A change could substantially increase vehicle traffic on the county gravel road.
- Implement a weed management plan for the property.

Response: Funds for the acquisition would come from BPA resident fisheries habitat conservation program. In return for these funds, FWP must develop a management plan within one year of closing as part of the agreement for funding. If acquired, FWP would develop the draft management plan for this Foy's Bend property within a next year and issue a new draft EA and public review process for that plan. The concerns addressed here would be covered in greater detail in that management plan. Because the property is being purchased for habitat conservation and not primarily for access, the land uses will be similar to current land uses. It is our intention to allow limited public access to the property for some degree of hunting, fishing, and other carefully managed outdoor activities that will not impact the habitat values or create problems for neighbors. FWP would also be considering the possibility of having a caretaker living on-site.

Revisions to the Amended Draft Environmental Assessment

There are no substantive changes to the amended draft EA as a result of public comment. The amended draft EA, together with this amended decision notice, will serve as the final EA and environmental document for this proposal.

Decision

After reviewing the amended draft EA, the public comments, and public support FWP received on this proposal, I recommend FWP complete the proposed action, the acquisition of 245 acres of land along the Flathead River referred to as Foy's Bend in this document, subject to final approval by the FWP Commission and the State Land Board. This site is a key location for fisheries and wildlife habitat protection in the Lower Flathead River drainage. This site will remain undeveloped and provide sustainable riparian and wetland habitat for westslope cutthroat trout and bull trout, and will also provide excellent wildlife habitat for future generations of Montanans to enjoy. It is my belief that the proposed acquisition has the greatest benefits to the human and natural environment.

James R. Satterfield, Jr.

1/15/09

James R. Satterfield, Jr., Ph.D.
Regional Supervisor

Date

Amended Draft Environmental Assessment

Foy's Bend Land Acquisition Flathead River



Prepared By R-1 Fisheries
Final draft: September 25, 2008
Amended draft: December 12, 2008



***Montana Fish,
Wildlife & Parks***

Foy's Bend Land Acquisition Flathead River

Amended Draft Environmental Assessment MEPA, NEPA, MCA 23-1-110 CHECKLIST

PART I. PROPOSED ACTION DESCRIPTION

1. **Type of proposed state action:** Land Purchase subject to Bonneville Power Administration (BPA) conservation easement.
2. **Agency authority for the proposed action:** Montana Fish, Wildlife & Parks. State statute 87-1-209 defines the authority Montana Fish, Wildlife & Parks has in acquiring land for the restoration, propagation, and/or protection of game, birds, fish, or fur-bearing animals.

Additionally, 75-7-101 of the Montana Code Annotated provides protection to natural rivers and streambeds and the lands and property immediately adjacent to them to be protected and preserved in order to keep soil erosion and sedimentation to a minimum.

3. **Name of project:** Foy's Bend Land Acquisition
4. **Anticipated Schedule:**
Estimated Completion Date: March 31, 2009
5. **Location affected by proposed action:**
Flathead County, Range 21 W, Township 28 N, Sections 26, 27, 34, & 35
6. **Project size:** total approximately 243 acres

	<u>Acres</u>		<u>Acres</u>
(a) Developed:		(d) Floodplain	<u>241.30</u>
Residential	<u>1</u>	(2/3 in 100-year & 1/3 in 500-year flood plain)	
Industrial	<u>0</u>	(e) Productive:	
(existing shop area)		Irrigated cropland	<u>50</u>
(b) Open Space/	<u>242</u>	Dry cropland	<u>0</u>
Woodlands/Recreation		Forestry	<u>0</u>
(c) Wetlands/Riparian	<u>141</u>	Rangeland	<u>0</u>
Areas		Other	<u>0</u>

7. **Listing of any other local, state, or federal agency that has overlapping or additional jurisdiction:**

- (a) **Permits:** Permits will be filed at least 2 weeks prior to project start.

<u>Agency Name</u>	<u>Permits</u>
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(b) **Funding:**

<u>Agency Name:</u>	<u>Funding Amount:</u>
Bonneville Power Administration	\$2,030,000

(c) **Other overlapping or additional jurisdictional responsibilities:**

<u>Agency Name</u>	<u>Type of Responsibility</u>
State Historic Preservation Office	cultural resources

8.1 Project Proposal

In 2007, the Bonneville Power Administration (BPA), the Confederated Salish and Kootenai Tribes (CSKT) and Montana Fish Wildlife and Parks (FWP) entered into the *Memorandum of Agreement Between the Confederated Salish and Kootenai Tribes, the State of Montana and the Bonneville Power Administration for Resident Fish Mitigation* (hereinafter referred to as the "2008-2009 MOA"). The 2008-2009 MOA allows FWP to buy qualifying properties with BPA money to mitigate harmful impacts to resident fish resulting from the construction of Hungry Horse Dam and the subsequent inundation of a large portion of the South Fork Flathead River drainage. A copy of the 2008-2009 MOA is on file with the BPA Manager, Real Property Services, P.O. Box 3621, Portland, OR 97208-3621. In accordance with the 2008-2009 MOA, FWP now seeks to acquire ownership of a 243-acre parcel of land located on the main stem of the Flathead River south of Kalispell, at the same time providing a conservation easement to BPA. The purpose of this project is to preserve, create, enhance, restore, and protect the functional values of riparian lands, wetlands and other lands, and to conserve natural values including fish and wildlife habitat, water quality, flood water retention, groundwater recharge, open space, aesthetic values, and environmental education, consistent with the 2008-2009 MOA. As agreed to in the 2008-2009 MOA, and in conjunction with completing all final acquisition transactions, FWP will convey a conservation easement to BPA that protects the property for the purposes for which BPA funds the acquisition and insures the long-term protection of the parcel's habitat and other conservation values. BPA is providing all acquisition funding for the project.

This Foy's Bend parcel is located just below the transition zone between the upper braided and the lower meandering sections of the Flathead River. As shown in Figs. 1 & 2, it consists of the interior of one of the larger meander reaches of the Flathead River and is nearly surrounded by water. It includes approximately 2.2 miles (3.5 km) of high quality, intact, cottonwood/riparian riverbank habitat. The Foy's Bend area contains substantial areas of deep, large, woody debris in the river channel, which provides cover and over-winter habitat for adult bull trout. The only building structures on the property include a mobile home and large hay shed. Most of the property falls within the 100-year floodplain.

The proposed project adjoins 190 acres of land, with 0.9 miles (1.4 km) of riverbank, already under conservation easement and is across the river from another 265 acres and about 1.5 miles (2.4 km) of riverbank under conservation easement (Fig. 1). This project will protect another 2.2 miles (3.5 km) of riverbank and will greatly help maintain the habitat integrity of this portion of the Flathead River system where the Stillwater and upper Flathead merge and transition into the meandering lower Flathead River system.

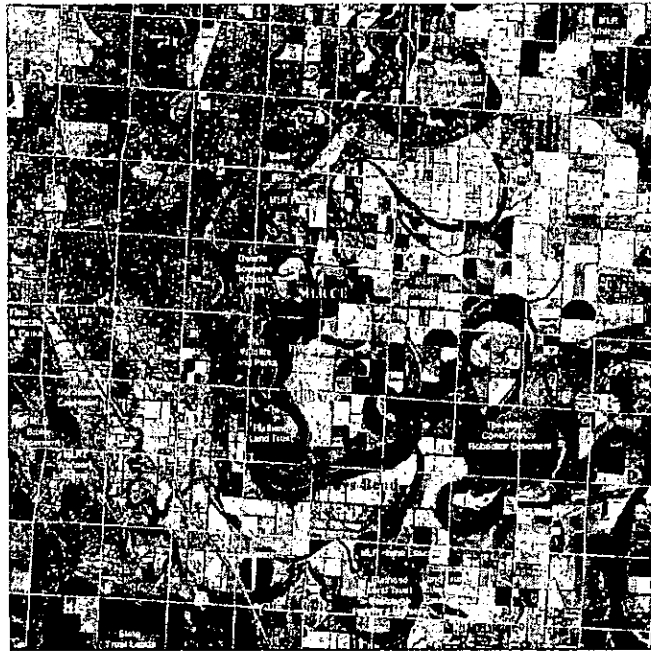


Figure 1. Location of Proposed Foys Bend project southeast of Kalispell along the Flathead River, Flathead County, Montana.



Figure 2. Aerial photo of Foy's Bend property (outlined in yellow) on the Flathead River near Kalispell. Riparian areas are shaded in purple and wetlands in blue.

8.2. Draft Conservation Easement Terms:

The conservation easement that will be held by BPA can allow compatible public and other land uses to occur that do not impair or impact the conservation values of the parcel. The details of what public or other uses and activities will be provided in a draft Management Plan that FWP must provide BPA within 1 year of the property acquisition. This Management Plan will be the subject of a future FWP draft EA and public review process. FWP contemplates that dispersed recreation such as hunting, bird watching, education, hiking, and fishing would be allowable public uses. Future land uses will likely include riparian habitat restoration and limited agricultural production for habitat benefits. Under state law and/or the terms of the conservation easement, FWP, as the owner of the property, will manage/control noxious weeds, pay property taxes, and fence or undertake other property maintenance activities to insure conservation of the habitat values.

The following are the uses that would be prohibited by the proposed conservation easement unless they are considered "compatible uses" in Part IV of the conservation easement specifically approved in a Management Plan agreed to by BPA:

1. Haying, and/or mowing;
2. Altering of grassland, woodland, wildlife habitat or other natural features by burning digging, plowing, disking, cutting or otherwise destroying the vegetative cover;
3. Dumping refuse, wastes, sewage or other debris;
4. Harvesting wood products;
5. Draining, dredging, channeling, filling, leveling, pumping, diking, impounding or related activities, as well as altering or tampering with water control structures or devices;
6. Diverting or causing or permitting the diversion of surface water into, or out of the easement area surface by any means;
7. Building or placing any new buildings or structures on the easement area;
8. Planting or harvesting any crop;
9. Grazing or allowing livestock on the easement area.
10. Mining—excavation, dredging, or removal of soil, sand, gravel, rock, minerals or other surface or subsurface materials.
11. Incompatible Uses—surface use except for such purposes necessary to preserve, enhance, restore or create wetlands and riparian resource functions and values;
12. Acts Detrimental to Conservation—activities detrimental to conservation of the the following: fish and wildlife habitat, flood control, erosion control, water quality protection and enhancement, traditional cultural materials production, aesthetics, and low impact recreation;
13. Subdivision—subdivision of land into multiple independently platted parcels.

However, the use of the easement area for compatible uses, including, but not limited to haying, mowing, wildlife crop production, or riparian/forest restoration and other wildlife crop production purposes may be allowed if addressed and approved by BPA in the Management Plan for the property.

9. Description and analysis of reasonable alternatives (including the no-action alternative) to the proposed action, whenever alternatives are reasonably available and prudent to consider, and a discussion of how the alternatives would be implemented:

Alternative A: No Action

Landowners would continue to offer sale of property on open market until sold. If FWP cannot purchase this parcel, it is likely that a private party would purchase it. If developed, the fisheries and wildlife habitat values and restoration options may be impaired, altered, or limited, and fish and wildlife values could be diminished.

Alternative B: Proposed Action

Purchase the property conveying a conservation easement to BPA using funds available from BPA. The landowner is not interested in selling a conservation easement to BPA or FWP. The parcel is for sale and does have one or more building sites on it.

PART II. ENVIRONMENTAL REVIEW CHECKLIST

1. Evaluation of the impacts of the Proposed Action including secondary and cumulative impacts on the Physical and Human Environment.

A. PHYSICAL ENVIRONMENT

1. <u>LAND RESOURCES</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Soil instability or changes in geologic substructure?		X				
b. Disruption, displacement, erosion, compaction, moisture loss, or over-covering of soil, which would reduce productivity or fertility?		X				
c. Destruction, covering, or modification of any unique geologic or physical features?		X				
d. Changes in siltation, deposition, or erosion patterns that may modify the channel of a river or stream or the bed or shore of a lake?		X				
e. Exposure of people or property to earthquakes, landslides, ground failure, or other natural hazard?		X				
f. Other:						1.f.

1.f. If purchased by FWP, no additional development will occur on this parcel as it is not FWP's mission to develop lands nor is it allowed under the terms of the conservation easement to be granted to BPA as part of this project. Most of the property would remain as natural habitat. A portion of the property that is cultivated may continue to be cultivated for wildlife habitat purposes. The property has been grazed for many years. Under FWP ownership, grazing would no longer occur, as it is not allowed under the terms of the conservation easement to be granted to BPA as part of the project. Land resources such as bank condition will improve over time under FWP ownership. The homesite may continue to be used by a caretaker to help manage and protect resources of the property.

2. <u>AIR</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Emission of air pollutants or deterioration of ambient air quality? (Also see 13 (c).)		X				
b. Creation of objectionable odors?		X				
c. Alteration of air movement, moisture, or temperature patterns or any change in climate, either locally or regionally?		X				
d. Adverse effects on vegetation, including crops, due to increased emissions of pollutants?		X				
e. <u>For P-R/D-J projects</u> , will the project result in any discharge, which will conflict with federal or state air quality regs? (Also see 2a.)		X				
f. Other:						2.f.

2.f. There should be no impacts to air quality or air resources with this proposed land acquisition.

3. <u>WATER</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Discharge into surface water or any alteration of surface water quality, including but not limited to temperature, dissolved oxygen, or turbidity?		X				3.a.
b. Changes in drainage patterns or the rate and amount of surface runoff?		X				
c. Alteration of the course or magnitude of floodwater or other flows?		X				
d. Changes in the amount of surface water in any water body or creation of a new water body?		X				
e. Exposure of people or property to water-related hazards such as flooding?		X				
f. Changes in the quality of groundwater?		X				
g. Changes in the quantity of groundwater?		X				
h. Increase in risk of contamination of surface or groundwater?		X				
i. Effects on any existing water right or reservation?		X				
j. Effects on other water users as a result of any alteration in surface or groundwater quality?		X				
k. Effects on other users as a result of any alteration in surface or groundwater quantity?		X				
l. For P-R/D-J, will the project affect a designated floodplain? (Also see 3c.)		X				
m. For P-R/D-J, will the project result in any discharge that will affect federal or state water quality regulations? (Also see 3a.)		X				
n. Other:						

3.a. The acquisition of this parcel will result in improved water quality over time. FWP will no longer allow grazing on the property (except to a limited degree for first 1-3 years as part of the sale agreement with current landowner). After grazing is no longer allowed, water quality will improve as banks begin to re-vegetate. FWP will manage weeds and may help restore native vegetation to accelerate bank stabilization and reduce erosion. Restoration actions would be part of future draft EA process that would be completed after detailed inventories and assessments of need are conducted.

4. VEGETATION Will the proposed action result in?	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Changes in the diversity, productivity or abundance of plant species (including trees, shrubs, grass, crops, and aquatic plants)?		X				
b. Alteration of a plant community?		X				4.b.
c. Adverse effects on any unique, rare, threatened, or endangered species?		X				
d. Reduction in acreage or productivity of any agricultural land?		X				
e. Establishment or spread of noxious weeds?		X				4.e.
f. For P-R/D-J, will the project affect wetlands, or prime and unique farmland?		X				
g. Other:		X				

4.b & 4e. The purpose of the purchase of this parcel is to protect native fish habitat for bull trout and westslope cutthroat trout. All existing riparian and wetland vegetation will be left in its natural state. If weeds become a problem they will managed to control or eliminate them per state law. FWP may need to help restore native riparian vegetation to accelerate bank stabilization, reduce erosion, and improve habitat and water quality. Active restoration actions would be part of future draft EA process that would be completed after detailed inventories and assessments of need are conducted.

5. <u>FISH/WILDLIFE</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Deterioration of critical fish or wildlife habitat?		X				5.a.
b. Changes in the diversity or abundance of game animals or bird species?		X				
c. Changes in the diversity or abundance of nongame species?		X				
d. Introduction of new species into an area?		X				
e. Creation of a barrier to the migration or movement of animals?		X				
f. Adverse effects on any unique, rare, threatened, or endangered species?		X				
g. Increase in conditions that stress wildlife populations or limit abundance (including harassment, legal or illegal harvest, or other human activity)?		X				
h. For P-R/D-J, will the project be performed in any area in which T&E species are present, and will the project affect any T&E species or their habitat? (Also see 5f.)		X				
i. For P-R/D-J, will the project introduce or export any species not presently or historically occurring in the receiving location? (Also see 5d.)		X				
j. Other:						

5.a. The purchased parcel will be primarily managed for fish and wildlife habitat and left in its natural state or enhanced through restoration and revegetation efforts. Habitat values for fish & wildlife habitat will likely improve over time. Details of any revegetation and restoration plans will be subject of future Management Plan, draft EA, and public review process.

B. HUMAN ENVIRONMENT

6. <u>NOISE/ELECTRICAL EFFECTS</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Increases in existing noise levels?		X				6.a.
b. Exposure of people to severe or nuisance noise levels?		X				
c. Creation of electrostatic or electromagnetic effects that could be detrimental to human health or property?		X				
d. Interference with radio or television reception and operation?		X				
e. Other:						

6.a. In the past, the property has been managed primarily for agricultural production, including grazing. Current landowner has also allowed hunting. If purchased by FWP, the land will remain relatively undeveloped with the possibility of continuing limited crop production on about 50 acres for wildlife benefits. Hunting may also be allowed. These land uses and noises would be similar to those of previous landowner and no changes or increases in noise would likely occur. The existing homesite may be used by host/caretaker, and normal noises associated with this use may continue. The future land uses that will be allowed will be subject of future Management Plan, draft EA, and public review process.

7. <u>LAND USE</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Alteration of or interference with the productivity or profitability of the existing land use of an area?		x				7.a.
b. Conflicted with a designated natural area or area of unusual scientific or educational importance?		x				
c. Conflict with any existing land use whose presence would constrain or potentially prohibit the proposed action?		x				
d. Adverse effects on or relocation of residences?		x				
e. Other:						

7.a. The purchase should not affect existing land uses in the area. If purchased by FWP, the land will remain relatively undeveloped with the possibility of continuing limited crop production for wildlife benefits. Grazing will be eliminated to help restore health riparian vegetation. Hunting may also be allowed consistent with approved Management Plan. The existing homesite may be used by an FWP host/caretaker. The existing structures could be maintained for habitat restoration and management purposes. These land uses are similar with previous land uses, and no significant changes would likely occur. No other structures or uses would be added but existing structures could be replaced with similar ones.

If any other changes are to occur to the property use in the future, those concerns will be addressed in a new EA and public review process.

8. <u>RISK/HEALTH HAZARDS</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Risk of an explosion or release of hazardous substances (including, but not limited to oil, pesticides, chemicals, or radiation) in the event of an accident or other forms of disruption?		X				
b. Affect an existing emergency response or emergency evacuation plan, or create a need for a new plan?		X				
c. Creation of any human health hazard or potential hazard?		X				8.c.
d. For P-R/D-J, will any chemical toxicants be used? (Also see 8a)		X				
e. Other:						

8.c. No chemicals or hazardous materials will be used on this parcel. Noxious weeds may be controlled using legal application of herbicides.

9. <u>COMMUNITY IMPACT</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Alteration of the location, distribution, density, or growth rate of the human population of an area?		X				
b. Alteration of the social structure of a community?		X				
c. Alteration of the level or distribution of employment or community or personal income?		X				
d. Changes in industrial or commercial activity?		X				
e. Increased traffic hazards or effects on existing transportation facilities or patterns of movement of people and goods?		X				9.e.
f. Other:						

9.e. No impacts should occur at the community level on this parcel. There may be a greater number of vehicles using the county road to access this area on a seasonal basis. Public uses might include wildlife viewing, hunting, or education. Public use and management will be the subject of a Management Plan and future draft EA and public review process.

10. <u>PUBLIC SERVICES/TAXES/UTILITIES</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Will the proposed action have an effect upon or result in a need for new or altered governmental services in any of the following areas: fire or police protection, schools, parks/recreational facilities, roads or other public maintenance, water supply, sewer or septic systems, solid waste disposal, health, or other governmental services? If any, specify:		X				
b. Will the proposed action have an effect upon the local or state tax base and revenues?		X				10b.
c. Will the proposed action result in a need for new facilities or substantial alterations of any of the following utilities: electric power, natural gas, other fuel supply or distribution systems, or communications?		X				
d. Will the proposed action result in increased use of any energy source?		X				
e. Define projected revenue sources						
f. Define projected maintenance costs.		X				10f.
g. Other:						

10b. FWP makes payments to counties for property taxes; the payments are equal to taxes assessed to private lands. Taxes in 2007 were \$4,254.71.

10f. Maintenance costs will be necessary to manage this parcel. They will include costs associated with surveys, boundary markings, parking area, display signs, management of fences, weeds, and habitat as well as the maintenance of the possible caretaker site. Costs will come primarily from BPA as part of the FWP Region 1 Fisheries mitigation program budget, other state programs and partners. Costs are expected to range, annually, from \$5,000 to \$10,000 per year.

11. <u>AESTHETICS/RECREATION</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Alteration of any scenic vista or creation of an aesthetically offensive site or effect that is open to public view?		X				
b. Alteration of the aesthetic character of a community or neighborhood?		X				
c. Alteration of the quality or quantity of recreational/tourism opportunities and settings? (Attach Tourism Report.)		X				11.c.
d. For P-R/D-J, will any designated or proposed wild or scenic rivers, trails, or wilderness areas be impacted? (Also see 11a, 11c.)		X				
e. Other:						

11.c. The parcel will be managed primarily for fish and wildlife habitat purposes. No additional buildings are planned. The current homesite and hay shed may remain or be replaced with similar structures over time as is allowed by the conservation easement that will be granted to BPA as part of this project. Habitats will likely be restored or improved as allowed under the conservation easement terms. Recreational opportunities may increase under public ownership. No visual obtrusions to scenic vistas or landscape would occur. The future land uses that will be allowed will be subject of future Management Plan, draft EA, and public review process.

12. <u>CULTURAL/HISTORICAL RESOURCES</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Destruction or alteration of any site, structure or object of prehistoric historic, or paleontological importance?		X				12a.
b. Physical change that would affect unique cultural values?		X				
c. Effects on existing religious or sacred uses of a site or area?		X				
d. For P-R/D-J, will the project affect historic or cultural resources? Attach SHPO letter of clearance. (Also see 12.a.)		X				12d.
e. Other:						

12a & 12d. See Appendix A

SIGNIFICANCE CRITERIA

13. <u>SUMMARY EVALUATION OF SIGNIFICANCE</u>	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
Will the proposed action, considered as a whole:						
a. Have impacts that are individually limited, but cumulatively considerable? (A project or program may result in impacts on two or more separate resources that create a significant effect when considered together or in total.)		X				
b. Involve potential risks or adverse effects, which are uncertain but extremely hazardous if they were to occur?		X				
c. Potentially conflict with the substantive requirements of any local, state, or federal law, regulation, standard, or formal plan?		X				
d. Establish a precedent or likelihood that future actions with significant environmental impacts will be proposed?		X				
e. Generate substantial debate or controversy about the nature of the impacts that would be created?		X				13e.
f. For P-R/D-J, is the project expected to have organized opposition or generate substantial public controversy? (Also see 13e.)		X				
g. For P-R/D-J, list any federal or state permits required.		X				

13.e. The parcel will be primarily managed for habitat and fish and wildlife values that will benefit water quality and wildlife and fish populations. Acquisition by FWP for these purposes will not significantly change the neighborhood land uses nor be incompatible with adjoining agricultural operations or nearby residential landowners. Limited agricultural land uses may continue with benefit for wildlife. The existing residence may remain in use by a caretaker. The opportunities for compatible public uses may increase as long as they are compatible with the conservation easement to be granted to BPA as part of this project. Hunting and wildlife viewing may occur with the possible seasonal increase in local traffic. Public and land uses will be subject to Management Plan and future draft EA and public review process.

2. **Evaluation and listing of mitigation, stipulation, or other control measures enforceable by the agency or another government agency:** Not applicable.

PART III. NARRATIVE EVALUATION AND COMMENT

This analysis did not reveal any significant impacts to the human or physical environment. The proposed project consists only of transfer of ownership to the state of Montana. No additional construction, improvements of any kind, or removal of existing structures are included in this proposal. Any additional habitat restoration, public use, or other land uses would be included in the Management Plan will be subject to future draft EA and public review process.

PART IV. PUBLIC PARTICIPATION

1. Public involvement for this project:

This project underwent a previous 21-day public review starting on September 25, 2008. That review included notices placed in the Bigfork Eagle and Daily Inter Lake and direct mailings to neighboring property owners, local conservation groups, and other area outdoor organizations. However, this previous review failed to fully outline the fact that the Foy's Bend acquisition would be subject to a conservation easement held by BPA or the terms of that conservation easement. So we are repeating the public review of this project to include the details of the BPA conservation easement.

The public will be notified in the following manners to comment on this current EA, the proposed action, and alternatives:

- Two public notices in The Daily Inter Lake & Bigfork Eagle newspapers
- One statewide press release
- Public notice on the Fish, Wildlife & Parks web site: <http://fwp.mt.gov>.

Notification of this environmental assessment will be sent to the neighboring landowners and interested parties to ensure their knowledge of the proposed project.

This level of public notice and participation is appropriate for a project of this scope having limited impacts, many of which can be mitigated.

Duration of comment period:

The public comment period will be 28 days, from December 12, 2008, through January 9, 2009. Comments may be e-mailed to jwachsmuth@mt.gov, or written comments may be sent to the following address:

John L. Wachsmuth
Fisheries Conservation Specialist
Montana Fish, Wildlife & Parks
490 N. Meridian Road
Kalispell, MT 59901

PART V. EA PREPARATION

1. **Based on the significance criteria evaluated in this EA, is an EIS required?** No.
Based on an evaluation of impacts to the physical and human environment under MEPA, this environmental review revealed no significant negative impacts from the proposed action because land uses would be similar to existing uses, with an increased emphasis on fish and wildlife habitat management that would have beneficial effects. In addition, the EA is sufficient to identify critical issues and all potential impacts; therefore, an EIS is not necessary and an environmental assessment is the appropriate level of analysis.

2. **Person(s) responsible for preparing the EA:**

John Wachsmuth, Fisheries Conservation Specialist 406.751.4554
Gael Bissell, Wildlife Biologist

3. **List of agencies consulted during preparation of the EA:**

Montana Fish, Wildlife & Parks
 Fisheries Division
 Wildlife Division
 Lands
 Legal Bureau
Montana State Historic Preservation Office (SHPO)
Confederated Salish and Kootenai Tribes (CSKT)

APPENDIX A

September 9, 2008

John L. Wachsmuth

FWP

490 N Meridian Road

Kalsipell MT 59901

RE: FOY'S BEND LAND ACQUISITION, 234 ACRES, FLATHEAD RIVER. SHPO Project #: 2008090907

Dear Mr. Wachsmuth:

I have conducted a cultural resource file search for the above-cited project located in Sections 26, 27, 34, and 35, T28N R21W. According to our records there have been no previously recorded sites within the designated search locales. The absence of cultural properties in the area does not mean that they do not exist but rather may reflect the absence of any previous cultural resource inventory in the area, as our records indicated none.

We feel that there is a low likelihood cultural properties will be impacted with this land acquisition. We, therefore, feel that a recommendation for a cultural resource inventory is unwarranted at this time. However, should future projects in this area contain any ground disturbing activities we would ask that a cultural resource inventory be conducted prior to any ground disturbing activities.

If you have any further questions or comments you may contact me at (406) 444-7767 or by e-mail at dmurdo@mt.gov <<mailto:dmurdo@mt.gov>>. Thank you for consulting with us.

Sincerely,

Damon Murdo

Cultural Records Manager

File: FWP/FISH/2008



Montana Fish, Wildlife & Parks

Region One
490 North Meridian Road
Kalispell, MT 59901
(406) 752-5501
Fax: 406-257-0349
Ref: JS039-08
January 15, 2009

Ladies and Gentlemen:

Fish, Wildlife & Parks (FWP), Region One, has completed an amended environmental assessment (EA) for the proposed Foy's Bend fee title land purchase of approximately 245 acres located just below the transition zone between the upper braided and the lower meandering sections of the Flathead River (R 21W, T28N, Sections 26, 27, 34, & 35) in Flathead County. After reviewing the amended draft EA, and the public comments and public support FWP received on this proposal, I recommend FWP complete the proposed action, subject to final approval by the FWP Commission and the State Land Board.

There were no changes to the amended draft EA based upon public comment received; therefore, the amended draft becomes the final EA. A copy of the amended decision notice is enclosed for your information. Please contact Fisheries Conservation Specialist John Wachsmuth at (406) 751-4554 or e-mail to jwachsmuth@mt.gov with questions or comments.

Sincerely,

James R. Satterfield, Jr., Ph.D.
Regional Supervisor

/ni

Enclosure

c: *Governor's Office, Attn: Mike Volesky, PO Box 200801, Helena, 59620-0801
*Environmental Quality Council, PO Box 20, Helena, 59620-1704
*Dept. of Environmental Quality, Planning, Prevention & Assistance, PO Box 200901, Helena, 59620-0901
*Dept. of Environmental Quality, Permitting Compliance, PO Box 200901, Helena, 59620-0901
*Montana Fish, Wildlife & Parks, Director's Office – Reg Peterson; Legal Unit – Stella Cureton; Fisheries – Karen Zackheim, Nancy Podolinsky, Jim Vashro, Joel Tohtz; Wildlife – Ken McDonald, Jim Williams; Lands – Darlene Edge; Parks – Dave Landstrom; Enforcement – Lee Anderson; Rebecca Cooper
Lynn Ducharme, Confederated Salish & Kootenai Tribes, PO Box 278, Pablo, 59855
*DNRC, PO Box 201601, Helena, 59620-1601 (Patty Greene)
*Montana Historical Society, SHPO, 225 North Roberts, Veteran's Memorial Building, Helena, 59620-1201
*Montana State Library, 1515 East Sixth Ave., Helena, 59620-1800
*Adam McLane, Montana Environmental Information Center, PO Box 1184, Helena, 59624
*George Ochenski, PO Box 689, Helena, 59624
*Wayne Hirst, Montana State Parks Foundation, PO Box 728, Libby, 59923
*Montana State Parks Association, PO Box 699, Billings, 59103
*Joe Gutkoski, President, Montana River Action Network, 304 N 18th Ave., Bozeman, 59715
Rep. Mark Blasdel, PO Box 291, Somers, 59932
Sen Verdell Jackson, 555 Wagner Lane, Kalispell, 59901
Flathead County Commissioners, 800 S Main Street, Kalispell, 59901
Flathead County Libraries, 247 First Avenue E, Kalispell; 521 Electric Avenue, Bigfork
Interested Parties